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**BZA-1711  
JAN WALKER  
Variance**

**STAFF REPORT  
March 16, 2006**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioner Jan Walker, with consent of the owner, Morris Rentals, and represented by Justin Younkin, is requesting a variance to allow 89 parking spaces instead of the required 115 spaces. The 115 parking spaces are required by the UZO for three existing buildings, all located on a single property: El Rodeo, China Buffet and a new restaurant/bar called Pete's in the former Hooligan's tavern. According to West Lafayette, this variance is needed because they have determined that a 2002 off-site parking agreement with the Hairman is now null and void and five parking spaces have been removed per the West Lafayette greenspace ordinance. The site is located at 124, 132, and 140 Howard Street, West Lafayette, Wabash 20 (SW) 23-4.

**AREA ZONING PATTERNS:**

The site in question is zoned CBW, Central Business District - West Lafayette. Prior to the APC-requested 2001 rezoning of the City (Z-1996), which included the Levee area, the site in question was zoned NB, Neighborhood Business. Surrounding properties are zoned either CBW or FP, Flood Plain. Bits and pieces of leftover FP zoning exist throughout the Levee simply because the properties have not been certified out of the Flood Plain by owners.

**AREA LAND USE PATTERNS:**

As mentioned above, the site in question has three existing commercial buildings with 89 shared parking spaces among them. Surrounding the site are a mix of old and new commercial uses. To the east is a large parking lot associated with Levee Plaza and a now defunct miniature golf course. To the south is Puccini's restaurant; southwest and west is Bruno's, the Travelodge and the Hairman beauty shop and a carwash. Abutting the site on the northern end is Goodyear Tire and a laundromat. Farther north is the Village Bottle Shop.

In addition to the retail establishments and restaurants surrounding the site, there are a significant number of residential units which contribute to the pedestrian nature of the area:

- 240 units of varying size are located to the north of this site in Waterfront Condominiums;
- 216 apartments in River Market at the southeast corner of State Street & South River Road;
- 92 one and two bedroom units in Wabash Landing apartment complex;
- 90 bedrooms located in State Street Towers Planned Development at the southwest corner of State Street & South River Road.

In addition to various multi-family units in the area and there are four large fraternities located on Littleton Street. While traditionally this area was more auto-intensive, there is an ongoing trend to add residential units in the joint Lafayette-West Lafayette downtown area.

**TRAFFIC AND TRANSPORTATION:**

The parking standard for restaurants and bars is one space per 100 square feet of gross floor area. The three buildings on this one lot have a total of 11,493 square feet of gross floor area: El Rodeo is 5349 square feet; China Buffet is 1740 square feet and the building proposed to house Pete's is 4404 square feet in size. Because these restaurants occupy one large lot, the parking standard is applied to all three and requires 115 parking spaces in all.

**ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

City sewer and Indiana-American Water serve the businesses on the site in question.

**STAFF COMMENTS:**

The commercial building located at 124 Howard Street and the two adjacent restaurants, China Buffet and El Rodeo, were all constructed in 1968. West Lafayette has determined that all three structures reside on one lot and that the parking situation must be handled as such. Petitioner wishes to reestablish a restaurant in the vacant building, which once housed Pete's and subsequently Hooligan's. In order for a restaurant/bar to be reestablished, the parking situation must either be brought into compliance or a variance must be granted. Designated parking spaces for the businesses on this one lot appear to have been handled through parking agreements initiated by the owner. When Pete's originally occupied this site in 2002, five parking spaces had been recently removed by a requirement of the City to meet the greenspace ordinance in favor of an off-site parking agreement with the Hairman which provided additional parking.

Based on conversations with the West Lafayette attorney, the current parking agreement initiated in 2002 for this use does not alleviate the need for additional parking for these uses. Petitioner claims that there are 89 spaces available; however, when staff visited the site, parking spaces were not delineated and parking appeared to be somewhat haphazard, although spaces surrounding El Rodeo were striped. Based on the square footage for all three structures, the site needs a total of 115 spaces. The site is zoned CBW, Central Business West Lafayette. While the intent of this zone is to provide areas for businesses which experience significant pedestrian traffic, the parking standard does not reflect that element. In comparison, the CB zone located in Lafayette's downtown does not require parking for uses such as restaurants, but does require parking for other uses such as hotels and places of public assembly. Another comparison would be the Neighborhood Business Urban (NBU) zone, which recognizes the smaller lots found in older urban areas and only requires new businesses to provide 60% of the required parking. The property in question appears to provide 77% of the required parking.

Staff feels that this particular structure is burdened by three circumstances. First, there was once parking in front of this structure and it was removed at the City's request in order to comply with the greenspace ordinance. Second, the parking standard for this zoning district does not recognize pedestrian foot traffic and although it may not be supported by West Lafayette, from a planning perspective businesses located in a "downtown - pedestrian area" should not have the same parking standard as businesses that locate in areas that can only be easily reached by cars. With that line of thought, staff finds that the ordinance does work a hardship in this case. Staff understands that there has been concern over parking in this area of West Lafayette and the public's unwillingness to use parking garages, but that is neither the fault of this petitioner nor the zoning ordinance. Adding to this site's pedestrian nature, this area has been included in the Lafayette-West Lafayette "Hilltop-to-Hilltop" area (Five Points in Lafayette to the Chauncey Village in West Lafayette), the purpose of which is to affirm and strengthen an image of the downtown as the center of both cities and providing easy access to and from both cities to pedestrians and transit riders. While this area may have been more traditionally auto-oriented

than other locations within "Hilltop-to-Hilltop," the pedestrian element of this site must not be overlooked.

The third circumstance that burdens this site is that it is an existing situation. The three structures on this lot have existed since 1968 and the parking associated with the uses appears to have been adequate. New restaurants in this area, such as Puccini's and Bruno's, have not sought parking variances, but they were newly constructed and benefited from larger lots. Staff feels that this site is different because of the age of the structure and its location. Even if the building in question were converted into retail space, which has a parking requirement of one space per 200 square feet of gross floor area instead of one per 100 square feet, and El Rodeo and the China Buffet were left as is, there would still be a parking deficit of 20 spaces. The only alternatives to a parking variance for this site are that the building be left vacant or that it be razed for additional parking. From a planning and economic development standpoint, neither option is beneficial to the community.

Regarding the ballot items:

1. At its March 15, 2006 meeting, the Area Plan Commission determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. There is adequate parking in the surrounding area, including the large parking garage at Wabash Landing. This area has become more pedestrian in nature and customers going to businesses all across the Levee and Wabash Landing can easily access locations on foot or by CityBus.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. Most of the surrounding uses have either been at their location for many years, the uses are new construction on larger lots, meet the ordinance for required parking or received a variance or reduction in parking requirements through the planned development process. Also, while the hours of operation of El Rodeo and China Buffet are similar, the proposed Pete's will have differing hours from many of the adjoining businesses.
4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. This area of West Lafayette is notorious for its difficulties with fulfilling parking requirements and many of the businesses in this zoning district, with the exception of the planned developments, are on smaller platted lots.
5. Strict application of the terms of the zoning ordinance **WILL** result in an unusual or unnecessary hardship as defined in the zoning ordinance because the CBW zone does not recognize the pedestrian element of the district. Without this variance, this building will remain unusable.

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain because this has been a long-standing situation and the

conditions have recently changed regarding the off-site parking agreement. The intent of the CBW zone is to provide areas for businesses that experience high pedestrian traffic. It is counterintuitive to require a suburban parking standard in a downtown central business district which doesn't support an urban design.

5b. The variance sought **DOES** provide only the minimum relief needed to alleviate the hardship.

**STAFF RECOMMENDATION:**

New information has been presented to staff regarding a parking agreement between the property owner and a former adjacent property owner to the east dating back to 1999 and it is currently under review by staff and West Lafayette legal counsel. Staff will inform the Board how this affects the case.

Approval



